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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Brigitte Gicquel

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
LLP  
901 NEW YORK AVENUE, NW  
WASHINGTON, DC 20001-4413

EXAMINER

SWARTZ, RODNEY P

ART UNIT

PAPER NUMBER

1645

MAIL DATE

DELIVERY MODE

07/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



### **DETAILED ACTION**

1. Applicants' Response to Office Action, received 16 April 2007, is acknowledged. Claims 26, 28, 29, 31, 33, 34, 46, 48, 49, 50, 51, and 52 have been amended. Claims 43 and 47 have been canceled.
2. Claims 26, 28, 29, 31-42, 45, 46, and 48-52 are pending and under consideration.

### **Rejections Moot/Withdrawn**

3. The rejection of claim 43 under 35 U.S.C. 112, second paragraph, as being indefinite, is moot in light of the cancelation of the claim.
4. The rejection of claim 43 under 35 U.S.C. 112, first paragraph, is moot in light of the cancelation of the claim.
5. The rejection of claim 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Bourn et al (Accession number U65786, direct submission, GenBank, 1 August 1996) is moot in light of the cancelation of the claim.
6. The rejection of claims 26 and 28 under 35 U.S.C. 112, second paragraph, as being indefinite, is withdrawn in light of the amendment of the claims.
7. The rejection of claims 29 and 31 under 35 U.S.C. 112, second paragraph, as being indefinite, is withdrawn in light of the amendment of the claims.
8. The rejection of claims 33 and 34 under 35 U.S.C. 112, second paragraph, as being indefinite, is withdrawn in light of the amendment of the claims.
9. The rejection of claim 52 under 35 U.S.C. 112, second paragraph, as being indefinite, is withdrawn in light of the amendment of the claim.

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10. The rejection of claim 46 under 35 U.S.C. 102(b) as being anticipated by Du (Accession number AD000020, direct submission, GenBank, 10 December 1996), is withdrawn in light of the amendment of the claim.

11. The rejection of claim 46 under 35 U.S.C. 102(b) as being anticipated by Bourn et al (Accession number U65786, direct submission, GenBank, 1 August 1996), is withdrawn in light of the amendment of the claim.

12. The rejection of claim 46 under 35 U.S.C. 102(b) as being anticipated by Gicquel et al (WO99/09186), is withdrawn in light of the amendment of the claim.

#### **Rejections Maintained**

13. The rejection of claim 39 under 35 U.S.C. 102(b) as being anticipated by Du (Accession number AD000020, direct submission, GenBank, 10 December 1996), is maintained for reasons of record.

Applicant argues that the claimed polynucleotide ends at one end with the sequence of SEQ ID NO:1, and at the other end with the sequence of SEQ ID NO:2, while the sequence of the cited reference extends beyond those endpoints.

The examiner has considered applicant's argument, but does not find it persuasive given the current claim language. The language does not restrict the claimed polynucleotide to the construct of applicant's argument.

14. The rejection of claim 42 under 35 U.S.C. 102(b) as being anticipated by Bourn et al (Accession number U65786, direct submission, GenBank, 1 August 1996), is maintained for reasons of record.

Applicant argues that the claimed polynucleotide ends at one end with the sequence of SEQ ID NO:7, and at the other end with the sequence of SEQ ID NO:8, while the sequence of

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the cited reference extends beyond those endpoints. The examiner has considered applicant's argument, but does not find it persuasive given the current claim language. The language does not restrict the claimed polynucleotide to the construct of applicant's argument.

### **Conclusion**

15. Claims 39 and 42 are rejected. Claims 26, 28, 29, 31-38, 40, 41, 45, 46, and 48-52 appear to be allowable.

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

17. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 7:30 PM EST.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Jeffrey Siew, can be reached on (571)272-0787.

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The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RODNEY P. SWARTZ, PH.D.  
PRIMARY EXAMINER  
Art Unit 1645

July 9, 2007